

## MINORS – INPATIENT ADMISSIONS AND RIGHTS

### ADMISSIONS – General (§ 51.13(1)(a) and (b), Wis. Stats.)

Age < 18 Parent/legal guardian can admit for **AODA\*** inpatient treatment

Age < 14\* Parent/legal guardian can admit for **MH\*** or **DD\*** inpatient treatment

Age ≥ 14\* Parent/legal guardian **and** minor can admit for MH or DD inpatient treatment, but **if minor refuses**, parent\*/legal guardian can admit

### SELF-ADMISSION - by a minor (§ 51.13(1)(c), Wis. Stats.)

Age < 14 If **minor wants admission** and parent/legal guardian **can't be found**, minor (or someone on minor's behalf) may ask the court under Chs. 48 or 938 for approval of admission.

Age ≥ 14 If **minor wants admission** and parent/legal guardian **refuses** or **can't be found**, minor (or someone on minor's behalf) may ask the court under Chs. 48 or 938 for approval of admission.

Court may approve a **temporary admission** pending a hearing.

### SHORT-TERM ADMISSIONS (§ 51.13(6), Wis. Stats.)

A minor can be admitted to an inpatient treatment facility for diagnosis and evaluation, or for dental medical or psychiatric services for **up to 12 days** without court review. The application for admission must be signed by the minor's parent/guardian [unless the self-admission provisions, above, apply.]

Age ≥ 14 The **minor must also sign** if the admission is for MI or DD, but if the **minor refuses**, the parent/guardian can sign for them. If that occurs, the **court review process** (below) kicks in.

The minor **cannot be readmitted** for short-term **psychiatric** services **within 120 days**.

The application for admission **must be reviewed** by the **treatment director** and can be accepted **only** if the director determines it is the **least restrictive means** of obtaining **adequate diagnosis and evaluation** or adequate provision of **medical, dental or psychiatric services**.

The minor **must be released** at the end of the **12-days unless** a **petition\*\*** is filed.

## NOTICE OF RIGHTS

(§ 51.13(3), Wis. Stats.)

Prior to admission or “as soon thereafter as possible”, a (not self-admitted) minor and parent/legal guardian must be informed, **orally** and **in writing** of:

- The court review process
- The standards the court will apply & possible dispositions
- The right to an independent evaluation, if ordered by a court
- The right to contact Disability Rights Wisconsin (DRW)
- The right to a court hearing if requested
- The right to an appointed lawyer if a court hearing is held
- The right of a non-voluntary minor, parent, guardian to request discharge
- The right to a hearing to determine continued appropriateness of admission

Prior to admission or “as soon thereafter as possible”, a **self-admitted minor** and parent/legal guardian must be informed, **orally** and **in writing** of:

- The minor’s **right to request discharge**
- **To be discharged w/in 48 hours** (unless a petition\*\* is filed)
- The minor’s **right to consent to or refuse treatment**

On admission ALL minors and their parent/legal guardians must be informed, **orally** and **in writing** of:

- **Patient rights** under § 51.61, Wis. Stats.

In addition, **writing materials** for use in requesting a hearing or discharge must be available **at all times**. **Staff shall assist** minors in **preparing** and **submitting** any **request** for discharge or hearing.

## COURT REVIEW PROCEDURE

(§ 51.13(4), Wis. Stats.)

**Within 3 days** after admission of a minor or **3 days after application** for admission, **whichever occurs first**, the **facility must file** a verified **petition** for **review of the admission** in the court with jurisdiction under Chs. 48 and 938 in the **county where the facility is located**.

Attached to the petition must be a **copy of the application** for admission and any **relevant professional evaluations**.

The petition must contain:

- Name, address, birthday of minor
- Names, addresses of minor’s parents or guardian
- Facts substantiating the petitioner’s belief in the minor’s need for treatment
- Facts substantiating the appropriateness of inpatient treatment at the facility
- Basis for petitioner’s opinion that inpatient care is least restrictive consistent with the minor’s needs

- Notation of any statement made or conduct demonstrated by the minor indicating that inpatient treatment is against the minor's will

The court can **change venue** to **county of residence** of **parent** or **guardian**, if there is hardship or it's in the best interests of the minor.

A **copy** of the petition shall be provided to the **minor** and, if available, **parent** or **guardian**, within 5 days after admission.

**Within 5 days** after petition is filed, the **court shall determine** whether there is a ***prima facie* showing** that:

- The minor is in need of treatment
- If the facility offers appropriate treatment for the minor
- If the inpatient setting is the least restrictive setting consistent with needs
- If the minor is  $\geq 14$  and admitted for MH or DD treatment, if the minor and the minor's parent or guardian properly signed.

If the court makes that showing, the admission is **approved**.

If **not**, the court may:

- Dismiss the petition; or
- Order additional information produced, including an independent evaluation, within 7 working days after admission; or
- Hold a hearing within 7 working days after admission

A court hearing is **mandatory** (not optional) if:

- The petition notes that the minor is unwilling to be admitted; or
- If the minor is  $\geq 14$  and the parent/guardian admitted the minor over the minor's refusal; or
- If a request for a hearing was made by the minor, the minor's counsel, parent or guardian.

Any **mandatory hearings** shall:

- Be held **within 7 working days** after admission or application for admission, whichever is sooner.
- **Counsel shall be appointed** if the minor is unrepresented.
- The court may also, if it deems necessary, appoint a **Guardian ad Litem**.
- The minor must be informed of **how to contact DRW**.

## COURT HEARINGS

(§ 51.13(4)(e) and (f), Wis. Stats.)

- **96 hours prior notice** must be provided by the court via certified mail.
- The **rules of evidence** for **civil actions** apply.
- A **record** must be maintained.
- There must be **findings of fact and conclusions of law**.
- The findings must be based on **clear and convincing evidence**.

## COURT FINDINGS

(§ 51.13(4)(g), Wis. Stats.)

If the court finds that the minor is in need of treatment, that the facility offers appropriate treatment, and that it is the least restrictive setting, the admission shall be permitted.

If treatment is needed but the facility is not appropriate or not the least restrictive setting, the court may place or transfer the minor to a less restrictive inpatient setting. [See § 51.13(4)(g) for approvals needed to place a minor at Northern Wisconsin Center or Southern Wisconsin Center for the Developmentally Disabled.]

If the court does not approve admission to a less restrictive or more appropriate setting, it shall:

- Dismiss the petition and release the minor; or
- Treat the petition as one for involuntary commitment and refer to another court; or
- If the minor is  $\geq 14$  and appears to be developmentally disabled, proceed with a protective placement, but without appointing a temporary guardian; or
- If the minor is in need of protective services or pregnant, process it as a CHIPS petition.

**Approval** of an admission **does not constitute** a finding of mental illness, developmental disability or drug dependency.

The court determination **can be appealed** to the Court of Appeals.

## CONTINUED APPROPRIATENESS OF ADMISSION (§ 51.13(7)(a), Wis. Stats.)

Age = 14 If the minor is still in need of inpatient care and treatment for MI or DD, the director shall ask the minor and parent/guardian to re-apply for admission. If **minor refuses**, the parent/guardian can sign for them. The application can be made within **30 days prior** to the minor's 14<sup>th</sup> birthday. The **court review process** (above) kicks in unless there has been a court review within the last **120 days**.

If the application is **not executed** by the time of the **minor's 14<sup>th</sup> birthday**, the **minor must be discharged**, unless a petition\*\* is filed by the **end of the next business day**.

## DISCHARGE

(§ 51.13(7)(b), Wis. Stats.)

Any minor who is **self-admitted** (see above) may **request discharge** in writing, **otherwise**:

Age  $\geq 14$  If admitted for AODA the parent/guardian can request discharge.

Age  $< 14$  If admitted for MI, DD or AODA, the parent/guardian can request discharge.

Age  $\geq 14$  If admitted for MI or DD, the minor **and** parent/guardian can request discharge. If **parent/guardian refuses** to request the minor's discharge **and** the director avers in writing that: the minor is in need of services; the facility's therapy or treatment is appropriate; and, that inpatient treatment is the least restrictive consistent with the minor's needs, the minor **may not be discharged**.

**Upon receipt** of any written **request by a minor for discharge**, the director must **immediately notify** the minor's **parent/guardian**, if available.

If minor can and does request discharge, or if minor's parent/guardian can and does request discharge, or if both the minor and parent/guardian request discharge, the minor **must be discharged within 48 (working) hours**, unless a petition\*\* is filed.

Any minor (except self-admitted) **who is not discharged** per this section may submit a **written request** [written by anyone] to the court **for a hearing** to determine **continued appropriateness of the admission**. If the **staff** observe a minor's conduct that demonstrates an **unwillingness to remain** at the facility, including a written expression of such opinion or unauthorized absence, the **director must file** a written request for such a hearing. The court shall hold a hearing **within 14 days** unless there was one held within 120 days prior. The court has the same disposition options as noted above.

[\*Notes: In this document, MH means "mental health", DD means "developmental disabilities", and AODA means "Alcohol and Other Drug Abuse". "Age  $< 14$ " means the minor is less than 14 years old. "Age  $\geq 14$ " means the minor is 14 years old or older. "Parent" means a parent with legal custody. "Petition\*\*" means a petition for ED, emergency commitment, involuntary commitment or protective placement. ED means "Emergency Detention". "CHIPS" means a "Child in Need of Protective Services".]